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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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OCT 7 1997

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of

Request of the United States
Telephone Association
for Waiver of the Commission's
Requirements in CC Docket
No. 96-128 (Payphone
Compensation)

In the Matter of

Implementation of the
Pay Telephone Reclassification
and Compensation Provisions of
the Telecommunications Act
of 1996

CC Docket No. 96-128

AT&T Corp. Opposition to USTA and TDS Petitions for Waiver

On September 30, 1997, the United States Telephone Association ("USTA") filed a petition requesting a blanket waiver that would give all LECs nine months to implement either a Flex ANI-based or an OLNS/LIDB-based technical solution to the Commission's requirement that LECs enable payphone service providers ("PSPs") to transmit specific payphone identification digits as part of call set-up information. On October 1, 1997, TDS Telecommunications Corporation ("TDS") requested a waiver until July 1, 1998 to permit it to provide LIDB-based payphone identification information. AT&T Corp. ("AT&T") strongly opposes these last-minute efforts to modify clearly stated payphone

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compensation rules that the Commission established almost a year ago.

Argument

Barely one week before the Commission's scheduled date for the commencement of per-call payphone compensation, USTA's and TDS' petitions seek a waiver of requirements that are essential to carriers who must make compensation payments. In reality, these petitions are not requests for waivers; rather, they are untimely requests for reconsideration of the Commission's rules. AT&T strongly opposes these eleventh-hour petitions, because they would significantly modify the Commission's rules and severely prejudice AT&T's ability to perform its obligations under the remaining provisions of the Commission's Payphone Orders.

Last fall, the Commission's Payphone Orders required carriers to establish mechanisms to track payphone calls and pay per-call compensation to PSPs for the period beginning October 7, 1997. Critically, the Commission's view that there could be a functioning "market" between carriers and PSPs (and thus a market-based compensation rate) was based solely on the assumption that carriers would be able to identify and block calls from individual payphones. Thus, the Commission's Payphone Reconsideration Order (¶ 64) required PSPs, as a condition of receiving per-call

compensation, to transmit signaling codes that specifically identify calls from payphones, and it required LECs to make such a capability available to PSPs no later than October 7, 1997.¹

Acting in good faith reliance on these rules, AT&T spent approximately \$20 million over the past eleven months to build an infrastructure that is now ready to receive specific payphone identification codes and use that information to (1) track and pay per-call payphone compensation; (2) block payphone calls at the request of 800 subscribers;² and (3) bill customers on a per-call basis for payphone usage, so that it can recoup the hundreds of millions of dollars of annual incremental expense associated

¹ Paragraph 64 of the Payphone Reconsideration Order states that "to be eligible for [per-call] compensation, payphones will be required to transmit specific payphone coding digits as part of their ANI, which will assist in identifying them to compensation payors. Each payphone must transmit coding digits that specifically identify it as a payphone, and not merely as a restricted line." Further, it provides that "LECs must make available to PSPs, on a tariffed basis, such coding digits as a part of the ANI for each payphone."

² The blocking capability that AT&T is able to implement at this time does not enable it to block calls from individual payphones; rather, 800 subscribers must decide whether they wish to block all calls from all payphones or to accept all such calls. An individual phone-by-phone blocking capability would require a huge additional expenditure and significantly increased processing costs (see AT&T Comments, August 26, 1997, pp. 17-18).

with payphone compensation.³ Now, however, USTA (p. 2) states that "it is clear that outstanding issues involving per-call tracking and payphone coding . . . cannot be resolved before the October 7 implementation date," and the LEC ANI Coalition continues to decline to comply with the Commission's rules.⁴

Contrary to the statements in USTA's waiver petition (p. 7), there has never been any legitimate "confusion" about the Commission's payphone information digit requirements -- a fact which USTA itself has admitted. Paragraph 64 of the Payphone Reconsideration Order explicitly requires LECs to implement the capability to enable PSPs to pass coding digits that specifically identify payphone calls. However, the LECs do not (and cannot) dispute that the "07" coding digits, which form the foundation of their LIDB/OLNS-based proposals, do not specifically identify payphone calls. Thus, their proposal is not sufficient under the Commission's explicit

³ See letters from Richard Rubin, AT&T, to Michael Kellogg, counsel for the LWC ANI Coalition, dated September 15 and 29, 1997, filed as ex partes in this docket ("AT&T September 15 ex parte" and "AT&T September 29 ex parte," respectively). These documents are attached as Appendices 1 and 2.

⁴ Ex parte letter from Michael Kellogg, counsel for the LEC ANI Coalition, to John Muleta, FCC, dated September 30, 1997 ("LEC ANI Coalition September 30 ex parte").

requirements, which have neither changed nor been appealed since they were first issued.

Indeed, USTA's own representatives have themselves acknowledged that the above interpretation of paragraph 64 is correct. In a September 4, 1997 memorandum to several of its committees, USTA stated "careful reading of this paragraph [64] indicates that . . . it would invalidate the meaning of 07 as ANI ii digits provided to IXCs for lines serving payphones," and it recognized that "the technical aspects of the network were not among the issues that were appealed" to the D.C. Circuit.⁵ These facts alone rebut USTA's claim (p. 4) that its belated waiver request presents "special circumstances" that are necessary to support a waiver of the Commission rules."

⁵ USTA Priority Memorandum dated September 4, 1997, attached to AT&T September 29 ex parte.

⁶ AT&T also notes that a recent ex parte filed by MCI calls into serious question the implementation cost figures cited by USTA and relied upon by others, including the LEC ANI Coalition (see letter from Mary Sisak, MCI to Michael Kellogg, counsel for the LEC ANI Coalition, dated September 30, 1997, attached hereto as Appendix 3). For example, MCI's letter (p. 5) notes that Bellcore information indicates that the number of affected non-equal access switches may be much lower than USTA suggested. MCI (id.) also notes that Flex ANI may only need to be implemented in significantly fewer than the 18,000 equal access offices referenced by USTA. In all events, it is clear that USTA has provided only an outline of possible costs, not an itemized statement of costs for any particular LEC, or any specific switch type. Similarly, the members of the LEC ANI Coalition who continue to refuse to supply payphone specific

(footnote continued on next page)

But there is much more to consider here than petitioners' tardiness. AT&T's September 15 and September 29 ex partes fully explained AT&T's actions in developing its payphone compensation systems. They demonstrated that AT&T designed and built its systems in reliance on the Commission's rules, and that these systems, particularly its systems relating to 800 subscriber calls, do not enable it to access LEC LIDB databases or to interact with proposed OLNS/LIDB "solutions." Moreover, even if AT&T began now to develop such capabilities, it would take 18-24 months and cost another \$16-22 million to complete and implement the development work in its network switches.⁷ In addition, AT&T showed that it cannot practically implement a per-call compensation mechanism based on "matching" LEC ANI lists and call records bearing a "07" code until late 1998. Thus, AT&T would be severely prejudiced by USTA's and TDS' requests for a for a nine-month "blanket" waiver of the payphone coding digit requirement for all LECs, because they

(footnote continued from previous page)

coding digits (GTE, SNET, Bell Atlantic (North) and U S West) have offered virtually no specific facts that would support a waiver of the Commission's rules in this regard (see LEC ANI Coalition September 30 ex parte, pp. 3-4).

⁷ Accordingly, LEC "offers" in the short term of "free" access to LIDB/OLNS databases (see LEC ANI Coalition September 30 ex parte, p. 4) are useless to AT&T.

would prevent AT&T from blocking payphone calls if requested by 800 subscribers and preclude AT&T from billing end users directly for the payphone costs they have caused.⁸ Moreover, the proposed waivers would still require AT&T and other carriers to maintain multiple systems to track payphone calls. Accordingly, the proposed waivers should be denied.

In contrast, as USTA noted (p. 10), AT&T would not oppose a limited waiver applicable only to phones served by non-equal access offices and equal access offices that currently employ Bell I signaling. Although it has no way to verify the accuracy of the cost figures USTA presented, AT&T does not believe that LECs should be required to replace non-equal access end offices or make major network upgrades solely to support the payphone compensation regime. Thus, AT&T would support a waiver to enable the handful of payphones served by such offices to continue under a per-phone payment structure, provided that there is a new traffic study that determines the average number of compensable calls placed from such phones, and further provided that the compensation rate enables carriers to recoup the costs of maintaining a duplicate tracking and

⁸ These consequences also do not serve the public interest aspects of the waiver test.

payment mechanism for such phones.⁹ AT&T also does not oppose a brief extension of the per-phone compensation scheme, on the same terms, for equal access switches that use Bell I signaling. This waiver, however, should be limited to a period of 3-6 months, which should be sufficient to transition such offices to signaling that will enable the passage of payphone specific codes.

Given the fact that AT&T and other carriers have undertaken significant work and expense to implement the Commission's per-call compensation scheme as directed, AT&T urges that, except for the limited waiver described above, the Commission should enforce its current rules. Thus, AT&T and other carriers should be required to track and pay per-call compensation as of October 7 for all payphones which transmit specific payphone coding digits (i.e., 27, 29 and 70). However, carriers should not be required to pay compensation for payphones that do not meet these clearly defined eligibility requirements, because carriers will be deprived of their assumed ability to block calls from such

⁹ The waiver for any particular office should also be applicable only until it is upgraded to equal access capability.

phones, and they will also be unable to bill customers directly for calls from those phones.¹⁰

Conclusion

For the reasons set forth above, USTA's and TDS' waiver petitions should be denied.

Respectfully submitted,

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October 7, 1997

¹⁰ PSPs that are unable to pass payphone identification digits through no fault of their own may seek a remedy directly against LECs who have failed to implement the Commission's rules.

CERTIFICATE OF SERVICE

I, Rena Martens, do hereby certify that on this 7th day of October, 1997, a copy of the foregoing "AT&T Corp. Opposition" was mailed by U.S. first class mail, postage prepaid, to the parties on the attached Service List.


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